

## Public Health Service, HHS

## § 136.1

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AUTHORITY: 25 U.S.C. 13; sec. 3, 68 Stat. 674 (42 U.S.C., 2001, 2003); Sec. 1, 42 Stat. 208 (25 U.S.C. 13); 42 U.S.C. 2001, unless otherwise noted.

## Subpart A—Purpose and Definitions

SOURCE: 64 FR 58319, Oct. 28, 1999, unless otherwise noted. Redesignated at 67 FR 35342, May 17, 2002

### § 136.1 Definitions.

When used in this part:

*Bureau of Indian Affairs* (BIA) means the Bureau of Indian Affairs, Department of the Interior.

*Indian* includes Indians in the Continental United States, and Indians, Aleuts and Eskimos in Alaska.

## § 136.2

*Indian health program* means the health services program for Indians administered by the Indian Health Service within the Department of Health and Human Services.

*Jurisdiction* has the same geographical meaning as in Bureau of Indian Affairs usage.

*Service* means the Indian Health Service.

### § 136.2 Purpose of the regulations.

The regulations in this part establish general principles and program requirements for carrying out the Indian health programs.

### § 136.3 Administrative instructions.

The service periodically issues administrative instructions to its officers and employees, which are primarily found in the *Indian Health Service Manual* and the Area Office and program office supplements. These instructions are operating procedures to assist officers and employees in carrying out their responsibilities, and are not regulations establishing program requirements which are binding upon members of the general public.

## Subpart B—What Services Are Available and Who Is Eligible To Receive Care?

SOURCE: 64 FR 58319, Oct. 28, 1999, unless otherwise noted. Redesignated at 67 FR 35342, May 17, 2002.

### § 136.11 Services available.

(a) *Type of services that may be available.* Services for the Indian community served by the local facilities and program may include hospital and medical care, dental care, public health nursing and preventive care (including immunizations), and health examination of special groups such as school children.

(b) *Where services are available.* Available services will be provided at hospitals and clinics of the Service, and at contract facilities (including tribal facilities under contract with the Service).

(c) *Determination of what services are available.* The Service does not provide the same health services in each area

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served. The services provided to any particular Indian community will depend upon the facilities and services available from sources other than the Service and the financial and personnel resources made available to the Service.

### § 136.12 Persons to whom services will be provided.

(a) *In general.* Services will be made available, as medically indicated, to persons of Indian descent belonging to the Indian community served by the local facilities and program. Services will also be made available, as medically indicated, to a non-Indian woman pregnant with an eligible Indian's child but only during the period of her pregnancy through postpartum (generally about 6 weeks after delivery). In cases where the woman is not married to the eligible Indian under applicable state or tribal law, paternity must be acknowledged in writing by the Indian or determined by order of a court of competent jurisdiction. The Service will also provide medically indicated services to non-Indian members of an eligible Indian's household if the medical officer in charge determines that this is necessary to control acute infectious disease or a public health hazard.

(2) Generally, an individual may be regarded as within the scope of the Indian health and medical service program if he/she is regarded as an Indian by the community in which he/she lives as evidenced by such factors as tribal membership, enrollment, residence on tax-exempt land, ownership of restricted property, active participation in tribal affairs, or other relevant factors in keeping with general Bureau of Indian Affairs practices in the jurisdiction.

(b) *Doubtful cases.* (1) In case of doubt as to whether an individual applying for care is within the scope of the program, the medical officer in charge shall obtain from the appropriate BIA officials in the jurisdiction information that is pertinent to his/her determination of the individual's continuing relationship to the Indian population group served by the local program.

(2) If the applicant's condition is such that immediate care and treatment are necessary, services shall be provided